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HOUSE BILL 3190

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Wallace, Fromhold, Curtis, Orcutt, Moeller and Dunn

Read first time 01/24/2006.      Referred to Committee on Technology,  
Energy & Communications.

1            AN ACT Relating to providing tax incentives to support the  
2 semiconductor cluster in Washington state; amending RCW 82.04.440,  
3 82.32.590, and 82.32.600; adding a new section to chapter 82.04 RCW;  
4 adding a new section to chapter 82.08 RCW; adding a new section to  
5 chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; creating  
6 new sections; providing a contingent effective date; and providing  
7 expiration dates.

8            BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9            NEW SECTION.    **Sec. 1.** The legislature finds that the welfare of  
10 the people of the state of Washington is positively impacted through  
11 the encouragement and expansion of family wage employment in the  
12 state's manufacturing industries. The legislature further finds that  
13 targeting tax incentives to focus on key industry clusters is an  
14 important business climate strategy. Washington state has recognized  
15 the semiconductor industry, which includes the design and manufacture  
16 of semiconductor materials, as one of the state's existing key industry  
17 clusters. Businesses in this cluster in the state of Washington are  
18 facing increasing pressure to expand elsewhere. The sales and use tax  
19 exemptions for manufacturing machinery and equipment enacted by the

1 1995 legislature improved Washington's ability to compete with other  
2 states for manufacturing investment. In 2003 the legislature enacted  
3 comprehensive tax incentives for the semiconductor cluster that address  
4 activities of the lead product industry and its suppliers and  
5 customers. These tax incentives are contingent on the investment of at  
6 least one billion dollars in a new semiconductor microchip fabrication  
7 facility in this state, which has not occurred. This investment  
8 criteria failed to recognize the significance of potential investment  
9 in the advanced semiconductor materials sector. Therefore, the  
10 legislature intends to complement existing comprehensive tax incentives  
11 for the semiconductor cluster to address activities of the advanced  
12 semiconductor materials product industry and its suppliers and  
13 customers. Tax incentives for the semiconductor cluster are important  
14 in both retention and expansion of existing businesses and attraction  
15 of new businesses, all of which will strengthen this cluster. The  
16 legislature also recognizes that the semiconductor industry involves  
17 major investment that results in significant construction projects,  
18 which will create jobs and bring many indirect benefits to the state  
19 during the construction phase.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
21 to read as follows:

22 (1) Upon every person engaging within this state in the business of  
23 manufacturing or processing for hire advanced semiconductor materials,  
24 as to such persons the amount of tax with respect to such business  
25 shall, in the case of manufacturers, be equal to the value of the  
26 product manufactured, or, in the case of processors for hire, be equal  
27 to the gross income of the business, multiplied by the rate of 0.275  
28 percent.

29 (2) For the purposes of this section "advanced semiconductor  
30 materials" means silicon crystals, silicon ingots that are at least  
31 three hundred millimeters in diameter, raw polished semiconductor  
32 wafers that are at least three hundred millimeters in diameter, and  
33 compound semiconductor wafers that are at least three hundred  
34 millimeters in diameter.

35 (3) This section expires twelve years after the effective date of  
36 this section.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.08 RCW  
2 to read as follows:

3        (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
4 gases and chemicals used by a manufacturer or processor for hire in the  
5 production of advanced semiconductor materials.    This exemption is  
6 limited to gases and chemicals used in the production process to grow  
7 the product, deposit or grow permanent or sacrificial layers on the  
8 product, to etch or remove material from the product, to anneal the  
9 product, to immerse the product, to clean the product, and other such  
10 uses whereby the gases and chemicals come into direct contact with the  
11 product during the production process, or uses of gases and chemicals  
12 to clean the chambers and other like equipment in which such processing  
13 takes place.    For the purposes of this section, "advanced semiconductor  
14 materials" has the meaning provided in section 2 of this act.

15        (2) A person taking the exemption under this section must report  
16 under section 5 of this act.    No application is necessary for the tax  
17 exemption.    The person is subject to all of the requirements of chapter  
18 82.32 RCW.

19        (3) This section expires twelve years after the effective date of  
20 this section.

21        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 82.12 RCW  
22 to read as follows:

23        (1) The provisions of this chapter do not apply with respect to the  
24 use of gases and chemicals used by a manufacturer or processor for hire  
25 in the production of advanced semiconductor materials.    This exemption  
26 is limited to gases and chemicals used in the production process to  
27 grow the product, deposit or grow permanent or sacrificial layers on  
28 the product, to etch or remove material from the product, to anneal the  
29 product, to immerse the product, to clean the product, and other such  
30 uses whereby the gases and chemicals come into direct contact with the  
31 product during the production process, or uses of gases and chemicals  
32 to clean the chambers and other like equipment in which such processing  
33 takes place.    For purposes of this section, "advanced semiconductor  
34 materials" has the meaning provided in section 2 of this act.

35        (2) A person taking the exemption under this section must report  
36 under section 5 of this act.    No application is necessary for the tax

1 exemption. The person is subject to all of the requirements of chapter  
2 82.32 RCW.

3 (3) This section expires twelve years after the effective date of  
4 this section.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32 RCW  
6 to read as follows:

7 (1) The legislature finds that accountability and effectiveness are  
8 important aspects of setting tax policy. In order to make policy  
9 choices regarding the best use of limited state resources the  
10 legislature needs information on how a tax incentive is used.

11 (2)(a) A person who reports taxes under section 2 of this act or  
12 who claims an exemption or credit under sections 3 and 4 of this act  
13 shall make a complete annual report to the department detailing  
14 employment, wages, and employer-provided health and retirement benefits  
15 per job at the manufacturing site. The report shall not include names  
16 of employees. The report shall also detail employment by the total  
17 number of full-time, part-time, and temporary positions. The first  
18 report filed under this subsection shall include employment, wage, and  
19 benefit information for the twelve-month period immediately before  
20 first use of a preferential tax rate under section 2 of this act, or  
21 tax exemption or credit under sections 3 and 4 of this act. The report  
22 is due by April 30th following any year in which a preferential tax  
23 rate under section 2 of this act is used, or tax exemption or credit  
24 under sections 3 and 4 of this act is taken. The department may extend  
25 the due date for timely filing annual reports under this section as  
26 provided in RCW 82.32.590. This information is not subject to the  
27 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
28 public upon request.

29 (b) If a person fails to submit a complete annual report under (a)  
30 of this subsection by the due date of the report or any extension under  
31 RCW 82.32.590, the department shall declare the amount of taxes  
32 exempted or credited, or reduced in the case of the preferential  
33 business and occupation tax rate, for that year to be immediately due  
34 and payable. Excise taxes payable under this subsection are subject to  
35 interest but not penalties, as provided under this chapter. This  
36 information is not subject to the confidentiality provisions of RCW  
37 82.32.330 and may be disclosed to the public upon request.

1 (3) By November 1st of the year occurring five years after the  
2 effective date of this section, and November 1st of the year occurring  
3 eleven years after the effective date of this section, the fiscal  
4 committees of the house of representatives and the senate, in  
5 consultation with the department, shall report to the legislature on  
6 the effectiveness of this act in regard to keeping Washington  
7 competitive. The report shall measure the effect of this act on job  
8 retention, net jobs created for Washington residents, company growth,  
9 diversification of the state's economy, cluster dynamics, and other  
10 factors as the committees select. The reports shall include a  
11 discussion of principles to apply in evaluating whether the legislature  
12 should reenact any or all of the tax preferences in this act.

13 **Sec. 6.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to read  
14 as follows:

15 (1) Every person engaged in activities (~~which are within the~~  
16 ~~purview of the provisions of two or more of sections~~) that are subject  
17 to tax under two or more provisions of RCW 82.04.230 (~~to~~) through  
18 82.04.298, inclusive, shall be taxable under each (~~paragraph~~)  
19 provision applicable to (~~the~~) those activities (~~engaged in~~).

20 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
21 82.04.294(2), or 82.04.260 (1)(c), (4), or (~~(13)~~) (11) with respect  
22 to selling products in this state shall be allowed a credit against  
23 those taxes for any (a) manufacturing taxes paid with respect to the  
24 manufacturing of products so sold in this state, and/or (b) extracting  
25 taxes paid with respect to the extracting of products so sold in this  
26 state or ingredients of products so sold in this state. Extracting  
27 taxes taken as credit under subsection (3) of this section may also be  
28 taken under this subsection, if otherwise allowable under this  
29 subsection. The amount of the credit shall not exceed the tax  
30 liability arising under this chapter with respect to the sale of those  
31 products.

32 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be  
33 allowed a credit against those taxes for any extracting taxes paid with  
34 respect to extracting the ingredients of the products so manufactured  
35 in this state. The amount of the credit shall not exceed the tax  
36 liability arising under this chapter with respect to the manufacturing  
37 of those products.

1 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),  
2 82.04.294(1), section 2 of this act, or 82.04.260 (1), (2), (4), (~~((6))~~  
3 ~~or ((13))~~) or (11) with respect to extracting or manufacturing products  
4 in this state shall be allowed a credit against those taxes for any (i)  
5 gross receipts taxes paid to another state with respect to the sales of  
6 the products so extracted or manufactured in this state, (ii)  
7 manufacturing taxes paid with respect to the manufacturing of products  
8 using ingredients so extracted in this state, or (iii) manufacturing  
9 taxes paid with respect to manufacturing activities completed in  
10 another state for products so manufactured in this state. The amount  
11 of the credit shall not exceed the tax liability arising under this  
12 chapter with respect to the extraction or manufacturing of those  
13 products.

14 (5) For the purpose of this section:

15 (a) "Gross receipts tax" means a tax:

16 (i) Which is imposed on or measured by the gross volume of  
17 business, in terms of gross receipts or in other terms, and in the  
18 determination of which the deductions allowed would not constitute the  
19 tax an income tax or value added tax; and

20 (ii) Which is also not, pursuant to law or custom, separately  
21 stated from the sales price.

22 (b) "State" means (i) the state of Washington, (ii) a state of the  
23 United States other than Washington, or any political subdivision of  
24 such other state, (iii) the District of Columbia, and (iv) any foreign  
25 country or political subdivision thereof.

26 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
27 act or privilege of engaging in business as a manufacturer, and  
28 includes (i) the taxes imposed in RCW 82.04.240, section 2 of this act,  
29 82.04.2909(1), 82.04.260 (1), (2), (4), and (~~((13))~~) (11), and  
30 82.04.294(1); and (ii) similar gross receipts taxes paid to other  
31 states.

32 (d) "Extracting tax" means a gross receipts tax imposed on the act  
33 or privilege of engaging in business as an extractor, and includes the  
34 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to  
35 other states.

36 (e) "Business", "manufacturer", "extractor", and other terms used  
37 in this section have the meanings given in RCW 82.04.020 through

1 82.04.212, notwithstanding the use of those terms in the context of  
2 describing taxes imposed by other states.

3 **Sec. 7.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to  
4 read as follows:

5 (1) If the department finds that the failure of a taxpayer to file  
6 an annual survey or annual report under RCW 82.04.4452 or section 5 of  
7 this act by the due date was the result of circumstances beyond the  
8 control of the taxpayer, the department shall extend the time for  
9 filing the survey or report. Such extension shall be for a period of  
10 thirty days from the date the department issues its written  
11 notification to the taxpayer that it qualifies for an extension under  
12 this section. The department may grant additional extensions as it  
13 deems proper.

14 (2) In making a determination whether the failure of a taxpayer to  
15 file an annual survey or annual report by the due date was the result  
16 of circumstances beyond the control of the taxpayer, the department  
17 shall be guided by rules adopted by the department for the waiver or  
18 cancellation of penalties when the underpayment or untimely payment of  
19 any tax was due to circumstances beyond the control of the taxpayer.

20 **Sec. 8.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to  
21 read as follows:

22 (1) Persons required to file annual surveys or annual reports under  
23 RCW 82.04.4452 or section 5 of this act must electronically file with  
24 the department all surveys, reports, returns, and any other forms or  
25 information the department requires in an electronic format as provided  
26 or approved by the department(~~(, unless the department grants relief~~  
27 ~~under subsection (2) of this section)).~~ As used in this section,  
28 "returns" has the same meaning as "return" in RCW 82.32.050.

29 (~~(2) (Upon request, the department may relieve a person of the~~  
30 ~~obligations in subsection (1) of this section if the person's taxes~~  
31 ~~have been reduced a cumulative total of less than one thousand dollars~~  
32 ~~from all of the credits, exemptions, or preferential business and~~  
33 ~~occupation tax rates, for which a person is required to file an annual~~  
34 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~  
35 ~~82.32.560, 82.60.070, or 82.63.020.~~

1       ~~(3) Persons who no longer qualify for relief under subsection (2)~~  
2 ~~of this section will be notified in writing by the department and must~~  
3 ~~comply with subsection (1) of this section by the date provided in the~~  
4 ~~notice.~~

5       ~~(4))~~ Any survey, report, return, or any other form or information  
6 required to be filed in an electronic format under subsection (1) of  
7 this section is not filed until received by the department in an  
8 electronic format.

9       (3) The department may waive the electronic filing requirement in  
10 subsection (1) of this section for good cause shown.

11       NEW SECTION. Sec. 9. (1)(a) This act is contingent upon the  
12 siting, expansion, or renovation, and commercial operation of a  
13 significant advanced semiconductor materials fabrication facility or  
14 facilities in the state of Washington.

15       (b) For the purposes of this section:

16       (i) "Commercial operation" means the equipment and process  
17 qualifications in the new or expanded building are completed and  
18 production for sale has begun.

19       (ii) "Advanced semiconductor materials fabrication" means the  
20 manufacturing of "advanced semiconductor materials" as that term is  
21 defined in section 2 of this act.

22       (iii) "Significant" means that the combined investment or  
23 investments by a single person, occurring at any time before the  
24 effective date of this act, of new buildings, expansion or renovation  
25 of existing buildings, tenant improvements to buildings, and machinery  
26 and equipment in the buildings, at the commencement of commercial  
27 production, is at least three hundred fifty million dollars based on  
28 actual expenditures by the person.

29       (2) This act takes effect the first day of the month immediately  
30 following the department's determination that the contingency in  
31 subsection (1) of this section has occurred. The department shall make  
32 its determination regarding the contingency in subsection (1) of this  
33 section based on information provided to the department by affected  
34 taxpayers or representatives of affected taxpayers.

35       (3) The department of revenue shall provide notice of the effective

1 date of this act to affected taxpayers, the legislature, the office of  
2 the code reviser, and others as deemed appropriate by the department.

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